

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
LARRY D. VAUGHT, JUDGE

DIVISION IV

CA06-329

February 21, 2007

NORMAN R. EVANS

APPELLANT

APPEAL FROM THE PERRY  
COUNTY CIRCUIT COURT  
[CV-2005-81]

V.

SAMUEL WOODARD and  
TOMMY WOODARD

APPELLEES

HON. ALICE SPRINKLE GRAY,  
CIRCUIT JUDGE

AFFIRMED

Appellant Norman Evans alleged that he was physically assaulted and robbed by Samuel Woodard in May of 2002. He filed a pro se complaint in Perry County District Court on May 6, 2005, approximately three years after the incident allegedly occurred. The district court, and the circuit court on appeal, granted Woodard's motion for summary judgment based on his contention that a one-year statute of limitations barred Evans's suit. On appeal, Evans argues that the trial court erred because a three-year limitations period should have been applied to his claim. We disagree and affirm.

Arkansas Code Annotated § 16-56-104(2) (Repl. 2005) imposes a limitation of one year on all actions for assault and battery. The purpose of a statute of limitations is to encourage the prompt filing of claims by allowing no more than a reasonable time to make

a claim so a defendant is protected from having to defend an action in which the truth-finding process would be impaired by the passage of time. *McEntire v. Malloy*, 288 Ark. 582, 707 S.W.2d 773 (1986). In making our determination as to the application of the limitations, we look to the complaint itself. *McQuay v. Guntharp*, 331 Ark. 466, 963 S.W.2d 583 (1998).

Evans's complaint stated that he was "willfully, knowingly assaulted & robbed" by Samuel Woodard. Although his complaint specifically alleges an intentional tort, Evans attempts to re-frame this accusation as an injury to goods or chattel, which has a three-year limitations period. Ark. Code Ann. § 16-56-105 (Repl. 2005). However, Evans's attempt to avoid the limitations bar by re-classifying his claim fails for two reasons.

First, despite the trial court's pointed question as to whether Woodard committed any act against Evans that would not be prohibited by the one-year limitation, Evans failed to present any proof or argument that a different limitations period applied to his claim. Indeed, Evans argues for the first time on appeal that his claim was not barred by the one-year limitations period set forth in Ark. Code Ann. § 16-56-104(2). It was Evans's burden to show that his claim was not barred, and he made no attempt to do so. *See Watkins v. Martin*, 69 Ark. 311, 65 S.W. 103 (1901).

Second, Evans has failed to produce any convincing argument or support for his proposition that robbery should be classified as an injury to property or chattel and not an intentional tort. The portion of the statute that Evans seeks to apply to his claim sets out a three-year limitations period for civil "actions for taking or injuring any goods or chattels."

*See* Ark. Code Ann. § 16-56-105(6). Black's Law Dictionary, Seventh Edition, defines chattel as movable or transferable property, especially personal property. It defines goods as tangible or movable personal property other than money. Both goods and chattel are terms for classifying personal property. However, Evans's complaint failed to identify any *personal property* that was injured. Instead, it presented an allegation of injury to his *person* that allegedly occurred almost three years before he filed his complaint.

Therefore, because the trial court accurately applied a one-year limitation to Evans's robbery complaint, we affirm the grant of summary judgment in Woodard's favor. Further, as a matter of housekeeping, we note that the caption on Evans's appeal includes Tommy Woodard as a named defendant/appellee. However, because Tommy Woodard is not a party to the litigation, we lack personal jurisdiction to consider any claims against him.

Affirmed.

PITTMAN, C.J., and GRIFFEN, J., agree.